

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE SOUTHERN DISTRICT OF TEXAS
3 HOUSTON DIVISION

4 UNITED STATES OF AMERICA § CASE NO. 4:16-CR-00257
5 § HOUSTON, TEXAS
VERSUS § MONDAY,
6 § JUNE 20, 2016
DR. SOHAIL R. SIDDIQUI, ET AL § 2:22 P.M. TO 2:37 P.M.

7 INITIAL APPEARANCE AND ARRAIGNMENT

8 BEFORE THE HONORABLE STEPHEN SMITH
9 UNITED STATES MAGISTRATE JUDGE

10
11 APPEARANCES:

12 FOR PLAINTIFF/DEFENDANT: SEE NEXT PAGE
13 COURT RECORDER: (INFORMATION NOT PROVIDED)

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APPEARANCES:

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FOR THE DEFENDANT,
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FOR THE DEFENDANT,
DR. SOHAIL R. SIDDIQUI: JAMES M. ARDOIN III, ESQ.
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1 HOUSTON, TEXAS; MONDAY, JUNE 20, 2016; 2:22 P.M.

2 THE COURT: All right. We have a lot of people in
3 the courtroom this afternoon. I want to advise everybody if
4 you have a cell phone, please turn it off. I've got a zero
5 tolerance policy for cell phones going off in my courtroom.
6 You'll be asked to leave if it does. So be sure that it
7 doesn't.

8 All right. With that, let me call the first case,
9 United States of America versus Sohail Siddiqui and Starsky
10 Bomer, Criminal Case No. H-16-257.

11 MR. BAUM: Good afternoon, Your Honor. John Baum
12 for the United States.

13 THE COURT: Mr. Baum.

14 MR. ARDOIN: Good morning, Your Honor. Jimmy
15 Ardoin on behalf of Mr. Siddiqui.

16 MR. MEYER: Good afternoon, Your Honor. Philip
17 Meyer for Starsky Bomer.

18 THE COURT: All right. Mr. Siddiqui and
19 Mr. Bomer, we're here to conduct the Initial Appearance in
20 your case. The purpose of this proceeding is to advise you
21 of the charges brought against you, to advise you have a
22 right to remain silent, to advise you of your right to
23 Counsel, and to schedule other proceedings that might be
24 necessary in this case.

25 Mr. Siddiqui, have you received a copy of the

1 Indictment against you in this matter?

2 DEFENDANT SIDDIQUI: Yes, Judge.

3 THE COURT: Okay. Have you had a chance to read
4 that?

5 DEFENDANT SIDDIQUI: Yes.

6 THE COURT: And Mr. Bomer, have you also received
7 a copy of the Indictment against you in this case?

8 DEFENDANT BOMER: Yes, Your Honor.

9 THE COURT: Okay. And you've had a chance to read
10 that?

11 DEFENDANT BOMER: Not yet, sir.

12 THE COURT: Okay. Have you --

13 MR. MEYER: We're looking over it together.

14 THE COURT: All right. Or perhaps, Mr. Baum, can
15 you summarize the charges against these Defendants?

16 MR. BAUM: Yes, Your Honor.

17 THE COURT: And the potential penalties?

18 MR. BAUM: Both Defendants have been charged with
19 conspiracy to defraud the United States and pay healthcare
20 kickbacks in violation of Title 18, United States Code,
21 Section 1371, and a substantive violation of the
22 anti-kickback statute, which is Title 42, United States
23 Code, Section 1323-17. The penalties for both statutes are
24 the same. It's a fine of up to \$250,000 or twice the gain
25 or loss for the crime, or imprisonment of not more than five

1 years, or both, three years of supervised release.

2 THE COURT: All right. Now Mr. Siddiqui, without
3 discussing whether or not these charges are true, do you
4 understand what the Government is claiming you have done?

5 DEFENDANT SIDDIQUI: I do.

6 THE COURT: All right. Mr. Bomer, again without
7 discussing whether these charges are true or not, do you
8 understand what the Government is claiming you have done?

9 DEFENDANT BOMER: Yes, Your Honor.

10 THE COURT: Okay. With respect to these charges,
11 each of you have the right to remain silent. If you make
12 any statement, it can be used against you.

13 Do you understand that, Mr. Siddiqui?

14 DEFENDANT SIDDIQUI: Yes, sir.

15 THE COURT: And Mr. Bomer?

16 DEFENDANT BOMER: Yes, Your Honor.

17 THE COURT: Okay. Also, you each have the right
18 to be represented by Counsel at all stages of this case. If
19 you cannot afford Counsel, you can ask the Court to appoint
20 one to represent you.

21 My understanding, Mr. Siddiqui, is you've retained
22 Mr. Ardoin to represent you in this case?

23 DEFENDANT SIDDIQUI: Yes, sir.

24 THE COURT: Okay. His appearance will be noted
25 for the Record.

1 And Mr. Bomer, you've retained Mr. Meyer to
2 represent you; cc

3 DEFENDANT BOMER: Yes, Your Honor.

4 THE COURT: Okay. Mr. Meyer's appearance is noted
5 for the Record.

6 All right. Mr. Baum, what's the Government's
7 position with regard to bond?

8 MR. BAUM: I think that Counsel and the Government
9 have come to an agreement on bond for both Defendants.
10 Defense Counsel can correct if I misstate, but I --

11 THE COURT: I do have a recommendation from
12 Pretrial Services with regard to both Defendants, Are they
13 -- is that essentially the terms that the Parties have
14 agreed to?

15 MR. BAUM: It is with some modifications, Your
16 Honor.

17 THE COURT: All right.

18 MR. BAUM: The Parties -- with respect to bond,
19 the Parties would agree that the Defendants would post
20 \$100,000 bond by either money or property, and that both
21 Defendants will agree to wear a GPS monitoring device, in
22 addition to the conditions outlined by Pretrial. More
23 particularly, the restrictions about not being involved in
24 any employment that allows for any billing to the Medicare
25 or Medicaid programs.

1 THE COURT: Right. All right. Now the
2 recommendations that I saw got one recommendation of
3 \$100,000 with \$10,000 deposit and that's for Mr. Bomer, but
4 the recommendation for Mr. Siddiqui was a \$25,000 unsecured
5 bond.

6 Mr. Ardoin, do you want to comment with regard to
7 those conditions?

8 MR. ARDOIN: Well, we've agreed with the
9 Government. The Government is prepared to, I think it's
10 understood, but I'll put on evidence and move for detention
11 potentially if he weren't willing to agree to these
12 conditions.

13 Obviously my client was woken up at 6:00 a.m. this
14 morning to be taken out of his cell. You can see in his
15 pajamas. He'd rather get back home as soon as possible and
16 start the defense in this case, rather than waste a bunch of
17 time with a Detention Hearing.

18 THE COURT: All right. Then it is the decision of
19 this Court that the Defendants will be released on posting
20 of a \$100,000 bond. The -- I'll require, instead of a
21 \$10,000 deposit, I'll require a 5 percent deposit on both
22 bonds for both Defendants.

23 The other conditions of your release will include
24 GPS monitoring and I'm going to go over the other conditions
25 with both of you now. You need to pay special attention to

1 those conditions as I go over them because if there are any
2 violations of these conditions, then there will be serious
3 consequences.

4 Following release in this case, both of you must
5 make all court appearances as required and surrender to
6 serve any sentence the Court might impose. You must not
7 violate any federal, state or local law while on release in
8 this case. You must immediately advise the Court, Defense
9 Counsel, and Pretrial Services in writing before any change
10 in address or telephone number. You must not do anything to
11 intimidate a witness or obstruct a criminal investigation.

12 You'll be required to report to US Pretrial
13 Services on a regular basis.

14 In addition on Mr. Bomer, your wife will be
15 required to serve as a co-signer of the bond. I think that
16 was one of the recommendations of Pretrial Services.

17 Both Defendants will be required to pay the cost
18 of the location monitoring based on their ability to pay as
19 Pretrial Services may determine.

20 I'm not going to set a curfew. If Pretrial
21 Services believes that's appropriate, I'll leave that to the
22 Pretrial Services, leave that to their discretion.

23 Do either of you have passports?

24 DEFENDANT SIDDIQUI: Yes.

25 DEFENDANT BOMER: Yes, I do.

1 THE COURT: All right. You'll need to turn in
2 your passports during the pendency of this case to Pretrial
3 Services. You can do that after we're done with this
4 proceeding this afternoon or at this point.

5 And you're not to obtain another passport during
6 the pendency of the case.

7 Your travel will be restricted to the Southern
8 District of Texas.

9 With regard to employment, you're to maintain or
10 actively seek employment if you become unemployed. Those --
11 that employment must not be in any position that bills or
12 deals with Medicare or Medicaid. So they need to be
13 involved in some other position, other than one that bills
14 or deals with Medicare or Medicaid.

15 You'll be required to avoid any contact with any
16 Co-Defendant or witnesses or potential victims in this case.

17 You'll be required to refrain from possessing a
18 firearm, destructive device, or other dangerous weapon,
19 refrain from excessive use of alcohol, or refrain from any
20 use or unlawful possession of a narcotic drug or other
21 controlled substance.

22 If you have any contact with law enforcement, that
23 is, if you're arrested or if you're even stopped at a
24 traffic stop, you'll need to report that to your Pretrial
25 Services Officer so that they can be made aware.

1 Those are the conditions of your release. Any
2 comments about those, Counsel?

3 MR. MEYER: Your Honor, if I may? Mr. Bomer is an
4 officer in the Air Force Reserve. He will be required to
5 travel -- with the Court's permission -- to Barksdale Air
6 Force Base in Shreveport, Louisiana, and to San Antonio
7 periodically through the coming months.

8 As long as the Court approves it and as long as he
9 informs Pretrial Services, we would ask that he be allowed
10 to continue.

11 THE COURT: All right. Yeah, you will be allowed
12 to travel outside the District for those purposes, both to
13 Louisiana and San Antonio, provided you notify Pretrial
14 Services in advance.

15 DEFENDANT BOMER: Yes, sir.

16 THE COURT: All right.

17 MR. BAUM: One issue I do want to bring up --

18 THE COURT: Yes, sir.

19 MR. BAUM: -- for Your Honor, given Mr. Bomer's
20 involvement in the military, the Government's concerned that
21 there could be an overseas deployment and I wanted to raise
22 that with the Court to see if a condition of his bond could
23 be no overseas deployment?

24 MR. MEYER: I addressed it with my client, Your
25 Honor. He informs me that the position that he's in with

1 the Air Force would not require an overseas deployment. I
2 could have him address the Court regarding that, if the
3 Court would require it.

4 THE COURT: No. We'll deal with that, if that
5 comes up. I'm not going to deal with that right now. I'm
6 not going to direct the Department of Defense as to what to
7 do at this point.

8 All right. Those are the conditions of your
9 release.

10 Any question about those from your client's
11 perspective, Mr. Ardooin?

12 MR. ARDOIN: No, Your Honor.

13 THE COURT: Okay. All right. I'm now going to
14 over the potential penalties in the event of any violation
15 of these conditions.

16 A violation of any condition of release may result
17 in the immediate issuance of a warrant for your arrest, a
18 revocation of release, an Order for detention, and a
19 prosecution for contempt, which could result in a possible
20 term of imprisonment or fine.

21 If you commit any offense while on pretrial
22 release, it may result in an additional sentence of up to
23 ten years if that offense is a felony, up to one year if
24 that offense is a misdemeanor.

25 The sentence shall be consecutive to any other

1 sentence and must be imposed in addition to the sentence
2 received for the offense itself.

3 It's also a criminal offense if the Defendant
4 knowingly fails to make a court appearance or fails to
5 surrender to serve any sentence the Court might impose.

6 A term of imprisonment imposed for failure to
7 appear or surrender shall also be consecutive to the
8 sentence for any other offense. In addition, a failure to
9 appear may result in the forfeiture of the bail posted.

10 Any questions about any of that, Mr. Siddiqui?

11 DEFENDANT SIDDIQUI: No, sir.

12 THE COURT: Mr. Bomer?

13 DEFENDANT BOMER: No, Your Honor.

14 THE COURT: All right. Then the Marshals will be
15 ordered to keep these Defendants in custody until notified
16 that they've posted the bond and complied with the other
17 conditions of release.

18 Are we ready to proceed with arraignment or is
19 that it?

20 Mr. Ardoin, on behalf of your client?

21 MR. ARDOIN: We're ready to proceed, Your Honor.

22 THE COURT: All right. Mr. Siddiqui, have you had
23 enough time to review the charges against you in this
24 Indictment with your attorney?

25 DEFENDANT SIDDIQUI: No, I just briefly looked at

1 it, Your Honor. Yeah, I need to discuss with him. I don't
2 know what to say.

3 THE COURT: Okay. All right. All I want to do is
4 try to determine whether you're ready to enter a plea of
5 guilty or not guilty. That's going to be the only question
6 I ask, and I'm just asking if you're ready to do that?

7 Are you ready to do that?

8 DEFENDANT SIDDIQUI: Yes, sir.

9 THE COURT: Okay. Mr. Ardoin, do you agree to
10 waive a formal reading of the Indictment?

11 MR. ARDOIN: Yes, Your Honor.

12 THE COURT: All right. Then Mr. Siddiqui, how do
13 you plead to the charges against you in this Indictment?
14 Guilty or not guilty?

15 DEFENDANT SIDDIQUI: Not guilty.

16 THE COURT: A not guilty plea will be entered on
17 your behalf.

18 Mr. Bomer, are you ready to enter a formal plea to
19 the charges against you this afternoon?

20 DEFENDANT BOMER: Yes, Your Honor.

21 THE COURT: Does Counsel agree to waive the formal
22 reading?

23 MR. MEYER: We do, Your Honor.

24 THE COURT: All right. Then Mr. Bomer, how do you
25 plead to the charges against you in this Indictment? Guilty

1 or not guilty?

2 THE COURT: A not guilty plea will be entered on
3 your behalf.

4 I'll now go over the Scheduling Order for the
5 trial of this case:

6 All right. Now this case is set for trial before
7 District Judge Vanessa Gilmore on August the 22nd, 2016.

8 All motions are due by July the 11th.

9 Responses are due by July the 21st.

10 Proposed voir dire and jury charge are to be filed
11 by August the 12th.

12 Pretrial Conference is set for 9:30 a.m. on August
13 the 15th.

14 Jury selection and trial is set to begin at
15 1:30 p.m. on August the 22nd.

16 Mr. Baum, what does the Government estimate to be
17 the time of trial?

18 MR. BAUM: The Government estimates about two
19 weeks.

20 THE COURT: All right. Then I'll need to get
21 everyone's signature on this copy of the Scheduling Order.

22 (Pause in the proceedings.)

23 THE COURT: All right. Is there anything else to
24 discuss on this matter this afternoon on behalf of your
25 client?

1 Mr. Ardoin?

2 MR. ARDOIN: No, Your Honor.

3 THE COURT: Mr. Meyer?

4 MR. MEYER: No, Your Honor.

5 THE COURT: For the Government, Mr. Baum?

6 MR. BAUM: No, Your Honor.

7 THE COURT: You may be excused then.

8 | Thank you.

9 || (Proceedings adjourned at 2:37 p.m.)

10 | * * * * *

11 *I certify that the foregoing is a correct*
12 *transcript to the best of my ability produced from the*
13 *electronic sound recording of the proceedings in the above-*
14 *entitled matter.*

15 | /S/ MARY D. HENRY

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